

Message Text

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INFO AMEMBASSY COPENHAGEN

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USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 209863

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SUBJECT: RECOGNITION OF GUINEA-BISSAU

REF: (A) USNATO 5048; (B) USNATO 5062; (C) STATE
200517; (D) STATE 208369

1. IN FURTHER DISCUSSIONS IF REQUIRED, YOU MAY WISH TO
DRAW ON FOLLOWING WHICH RESPONDS TO REF A: BOTH PAIGC
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AND PORTUGAL HAVE DEMONSTRATED CAPABILITY TO STRIKE

ANYWHERE IN PORTUGUESE GUINEA. HOWEVER, WE BELIEVE THAT EXCEPT FOR INABILITY TO PRECLUDE OCCASIONAL ATTACKS BY PAIGC, PORTUGAL COMPLETELY CONTROLS ABOUT TWO THIRDS TO THREE QUARTERS OF TERRITORY. REMAINING QUARTER TO THIRD IS CONTESTED BY PORTUGUESE AND PAIGC. ALONG GUINEA BORDER, WITHIN THIS QUARTER TO THIRD OF PORTUGUESE GUINEA ARE AREAS INCLUDING THAT SURROUNDING PAIGC'S "CAPITAL" OF MEDINA DA BOE, WHERE PORTUGUESE HAVE NOT HAD

GARRISONS FOR SEVERAL YEARS. WE BELIEVE PAIGC HAS UNDER ITS CONTROL IN THESE AREAS ABOUT 25,000 TO 50,000 PEOPLE OUT OF PORTUGUESE GUINEA'S TOTAL ESTIMATED POPULATION OF 600,000. MAJOR POPULATION CENTERS REMAIN UNDER CONTROL OF PORTUGAL.

2. FACTUAL PREREQUISITES FOR RECOGNITION CONTAINED STATE 200517 REFLECT PRINCIPLES OF INTERNATIONAL LAW GENERALLY ACCEPTED BY WESTERN COUNTRIES. SOME NATO

MEMBERS MAY, HOWEVER, SUBSCRIBE TO DECLARATORY THEORY WHEREBY RECOGNITION IS REQUIRED ONCE FACTUAL PREREQUISITES SATISFIED. USG ASCRIBES TO CONSTITUTIVE THEORY WHEREBY RECOGNITION MAY BE WITHHELD FOR POLITICAL REASONS DESPITE PRESENCE OF FACTUAL CRITERIA BUT CANNOT BE EXTENDED ABSENT SUCH CRITERIA.

3. REGARDING REF A REQUEST FOR INTERNATIONAL LAW CITATIONS CONCERNING RECOGNITION, USNATO MIGHT CONSULT WHITEMAN, DIGEST OF INTERNATIONAL LAW, VOL. 2; AMERICAN LAW INSTITUTE, RESTATEMENT SECOND, FOREIGN RELATIONS LAW OF THE UNITED STATES, SECS. 94-103; LAUTERPACHT, RECOGNITION IN INTERNATIONAL LAW; FALK, THE INTERNATIONAL LAW OF CIVIL WAR.

4. FOREGOING TREATISES GIVE NUMEROUS HISTORICAL EXAMPLES WHERE RECOGNITION OF STATEHOOD WITHHELD IN SITUATIONS INVOLVING INTERNAL CONFLICT. FOLLOWING ARE SOME RECENT

OCCURRENCES.

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A. ALGERIA -- ON SEPTEMBER 19, 1958 THE ALGERIAN NATIONAL LIBERATION FRONT (FLN) PROCLAIMED THE ESTABLISHMENT OF THE PROVISIONAL GOVERNMENT OF THE REPUBLIC OF ALGERIA (GPRA) WHICH APPEALED FOR INTERNATIONAL RECOGNITION. THOUGH THE GOVERNMENT WAS PROCLAIMED FROM TUNIS, THE GPRA CLAIMED IT WAS NOT GOVERNMENT IN EXILE BUT GOVERNMENT CONTROLLING PARTS OF ALGERIA. BETWEEN 1958 AND 1961, 29 STATES RECOGNIZED THE GPRA ON PURELY

POLITICAL GROUNDS. STATES REFRAINING FROM EXTENDING RECOGNITION CITED ABSENCE OF FACTUAL CRITERIA.

B. KATANGA -- ON JULY 11, 1960 MOISE TSHOMBE PROCLAIMED THE INDEPENDENCE OF KATANGA AND PRESSED FOR DIPLOMATIC RECOGNITION ON GROUNDS KATANGA SEEKING TO EXERCISE ITS RIGHTS OF SELF-DETERMINATION. THOUGH THE SECESSIONIST REGIME RECEIVED SOME MATERIAL SUPPORT, NO STATE FORMALLY RECOGNIZED ITS INDEPENDENCE.

C. BIAFRA -- ON MAY 30, 1967 THE REPUBLIC OF BIAFRA WAS DECLARED. IN TIME IT WAS RECOGNIZED BY GABON, ZAMBIA, TANZANIA, IVORY COAST AND HAITI. RECOGNITION, HOWEVER, WAS ACCORDED BY NO OTHER STATES.

5. YOU SHOULD BE AWARE THAT QTE RECOGNITION OF BELLIGERENCY UNQTE AND QTE RECOGNITION OF INSURGENCY UNQTE ARE TERMS OF ART UNDER TRADITIONAL CONCEPTS OF INTERNATIONAL LAW (SEE 1 WHITEMAN, DIGEST OF INTERNATIONAL LAW 486-524.), AND IMPLICATIONS OF THESE LESSER FORMS OF RECOGNITION ARE WIDELY DISPUTED. YOU SHOULD AVOID ANY STATEMENT INDICATING USG HAS FORMALLY RECOGNIZED BELLIGERENCY OR INSURGENCY IN GUINEA (B), SINCE THIS COULD GIVE RISE TO ASSERTIONS USG THEREBY ACQUIRED CERTAIN OBLIGATIONS TOWARD PAIGC. WHILE PRESS GUIDANCE CONTAINED STATE 200517, ACKNOWLEDGES STRUGGLE TAKING PLACE IN GUINEA BISSAU IT AVOIDS LOADED TERMINOLOGY WHICH MIGHT COMPROMISE US POSITION. KISSINGER

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